

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

STEPHEN GILL and MICHELLE GILL,
husband and wife,

Plaintiffs,
vs. CASE NO.: 05-cv-10309-MLW

UNITED STATES OF AMERICA,

Defendant.

/

PLAINTIFFS' NOTICE OF APPEAL

Plaintiff STEPHEN GILL and Plaintiff MICHELLE GILL, husband and wife (“collectively, “Plaintiffs”), hereby appeal to the United States Court of Appeals for the First Circuit (“First Circuit”) from a Memorandum and Order, entered January 9, 2006, granting the Motion to Dismiss or in the Alternative for a Stay of Defendant UNITED STATES OF AMERICA and dismissing the instant civil action without prejudice to being reinstated if the Secretary of Labor decides that the Federal Employees Compensation Act, 5 U.S.C. § 8101 *et seq.* (“FECA”) does not cover the Plaintiffs’ claims (“Order of Dismissal”).

The Plaintiffs hereby concurrently appeal to the First Circuit from an Electronic Order, entered February 27, 2006, denying Plaintiffs’ Motion for Relief from the Order of Dismissal Pursuant to Fed.R.Civ.P. 60(b), to permit Plaintiffs to reinstitute their instant civil action without first submitting their claims to the Secretary of Labor to decide whether the FECA covers the Plaintiffs’ claims. *See, e.g.,* Grantham v. McGraw-Edison Co., 444 F.2d 210, 212 (7th Cir.1971), *overruled in part by,* Otis v. City of Chicago, 29 F.3d 1159, 1168 (7th Cir.1994); Mipuri v. ACT Mfg., Inc., 212 F.3d 624 (1st Cir.2000); *and* Garcia-Goysa v. Law Envtl. Consultants, Inc., 428 F.3d 14, 18-20 (1st Cir.2005).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this, the 9th day of March, 2006, I electronically filed the within document with the Clerk of Court by using its CM/ECF system which, in turn, will electronically transmit notice of the same to the following: AUSA Eugenia M. Carris, United States Attorney's Office, 1 Courthouse Way, Suite 9200, Boston, MA 02210; and Kristen Materne, Esq., 33 College Hill Road, Suite 15G, Warwick, RI 02886. I further certify that a true and correct copy of the foregoing was sent this same day by U.S. Mail to said person(s).



STEPHEN D. GILL

Massachusetts BBO No.: 630671
Law Firm of Stephen D. Gill, P.A.
200 E. Government Street, Suite 130
Pensacola, Florida 32502
Telephone: (850) 438-3338
Facsimile: (850) 438-3339
E-mail: stephen@gill-lawfirm.com